

REMARKS

Claims 1, 2, 4-8, 10-12, 14-19, and 21-32 remain pending in the instant application. All claims presently stand rejected. Claims 24-27 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

Claim Rejections – 35 U.S.C. § 101

Claims 24-27 stand rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. The Examiner stated that “[t]he applicant has defined a machine readable media to include non-tangible media such as carrier wave signals.” Accordingly, Applicants have amended the preambles of claims 24-27 to recite, “A machine-readable storage medium...” Accordingly, the claims are now limited to “tangible” storage mediums.

Pertinent Summary of Herz with Citations

Herz discloses a broadcasting technique that generates one or more customized programming channels for transmission to customers’ set top terminals. The set top terminals of each customer may then generate “virtual channels” containing a collection of only those video programs having content profiles which best match the customer’s profile and hence are most desirable to the customer. *Herz*, col. 4, lines 58-65 and lines 35-38. The virtual channels are created by each customer’s set top terminal with reference to an agreement matrix that relates customer profiles with content profiles. *Herz*, col. 5, lines 11-15.

The head end also uses a similar agreement matrix technique to determine what programs to transmit on the customized programming channels to the customers. “[A] passive feedback technique is provided for updating the customer profiles in accordance with the video programming actually watched by the customer.” *Herz*, col. 6, lines 43-46. A “monitoring function is accomplished by storing, at each customer’s set top multimedia terminal, **a record of the video programs actually watched** by the customer at the customer’s location and ... polling the set top multimedia terminals of

all customers to retrieve the records of the video programs actually watched by the customers at each customer location.” Herz, col. 6, line 64 to col. 7, line 4. Then, by determining the agreement matrix using the combined customer profiles for each node, programming channels containing the video programming which are collectively most desired by the customers making up the combined customer profiles may be determined for transmission from the head end to each of the customers connected to the same node.” Herz, col. 7, lines 7-13.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 4-8, 10-12, 14-19, and 21-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz et al. (US 6,088,722) in view of Srinivasan et al. (US 6,357,042).

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Independent claim 1 recites, in pertinent part

broadcasting meta-data to a plurality of client systems, the meta-data including sets of descriptors and/or attributes **describing respective pieces of broadcast programming content** from among a plurality of pieces of broadcast programming content **up for consideration to be included in a future, yet to be scheduled, broadcast;**

Applicants respectfully and strenuously submit that the combination of Herz and Srinivasan fails to teach or suggest broadcasting meta-data that describes programming content that has not yet been broadcasted or even scheduled for broadcast.

Firstly, Herz discloses a scheduling mechanism based on customer profiles that are generated by retrieving “records of the video programs **actually watched**... by the customers...” Therefore, Herz fails to teach or suggest a broadcast scheduling mechanism that uses meta-data describing programming content that has not yet been broadcasted or even scheduled for broadcasting. In contrast, the scheduling mechanism disclosed in Herz is based on programs already broadcasted and watched by the customers.

Second, the Examiner acknowledges that “Herz does not explicitly teach broadcasting meta-data to the client in order to rate content.” *Office Action* mailed 12/29/05, page 3. Therefore, the Examiner cites Srinivasan as teaching this additional missing element. However, Srinivason does not teach or suggest meta-data including “sets of descriptors and/or attributes **describing** respective pieces of broadcast programming content ... up for consideration to be included in a future, yet to be scheduled, broadcast...” Rather, Srinivason discloses

The overall purpose of the authoring station is addition of innovative material to the video data stream, such as **text overlay, graphic icons and logos for advertisement**, some of which may be associated with identity and address data to allow a viewer at a computerized end station to access advertisements and other data which may be associated with individual entities in the video presentation. Advertisements may, for example, be associated with a tracked object. Also the text annotations could either be set to track along with an object, or appear in a fixed position anywhere on the screen, as they are typical in broadcasts today.

Srinivasan, col. 6, lines 8-18 (emphasis added). Srinivasan discloses a technique of inserting meta-data into a video stream. Srinivasan discloses this meta-data as including text overlay, graphic icons, and logos for advertisement related to the **contemporaneously** transmitted program—not a future, yet to be scheduled, broadcast. Furthermore, the meta-data in Srinivasan includes text overly, graphic icons, and logos to support “advertisements”—not describing broadcasting programming content. The meta-data disclosed in Srinivasan cannot fairly be characterized as “including sets of descriptors and/or attributes describing respective pieces of broadcast programming content...”

Since the Examiner acknowledges that Herz fails to teach broadcasting meta-data and Srinivasan only discloses inserting meta-data such as text overlay, graphic icons, and logos **related to a contemporaneously transmitted program**, the combination of Herz and Srinivasan fails teach or suggest broadcasting meta-data describing programming content being considered for **future broadcast**, but which has not yet been broadcast.

Consequently, for the two independent reasons discussed above, the combination of Herz and Srinivasan fails to teach or suggest all elements of claim 1, as required under

M.P.E.P. § 2143.03. Independent claims 7, 10, 14, 18, 21, 24, 26, and 28 include similar nonobvious elements as independent claim 1. Accordingly, Applicants request that the instant §103(a) rejections of claims 1, 7, 10, 14, 18, 21, 24, 26, and 28 be withdrawn.

The dependent claims are nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections of the dependent claims be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

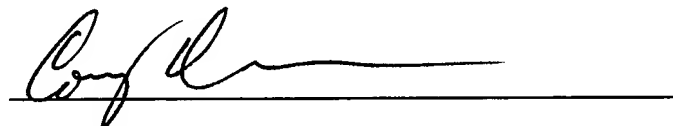
CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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